

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HP TUNERS, LLC, a Nevada limited liability company,)
vs.)
DEVIN JOHNSON, et al,)
Defendants.)

Plaintiff,) Civil Action No. 1:18-cv-04670
vs.) Hon. Steven C. Seeger
vs.) Magistrate Judge M. David Weisman

**DECLARATION OF LOWELL D. JACOBSON
IN SUPPORT OF PLAINTIFF HP TUNERS, LLC'S MOTION FOR
ENTRY OF DEFAULT JUDGMENT AGAINST DEFENDANT DEVIN JOHNSON**

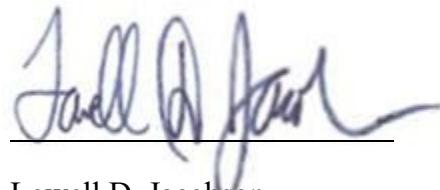
I, LOWELL D. JACOBSON, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746(2) that the following statements are true and correct:

1. I am one of the attorneys for the Plaintiff, HP Tuners, LLC, and in that capacity have been assigned to represent the interests of the Plaintiff in the above captioned matter.
2. Defendant Devin Johnson was properly served with the Fourth Amended Complaint (“FAC”) no later than May 1, 2019. (*See* Dkt. 49 & 49-1.)
3. Default was properly entered against Defendant Devin Johnson, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, on July 18, 2019, for failure to respond to the FAC. (Dkt. 69.)
4. Mr. Johnson has not reached out to me or any other of HPT’s counsel, and as far as I am aware, has not appeared or sought to appear in this matter, whether formally or informally, either *pro se* or via counsel.

5. Pursuant to 50 U.S.C. § 3931, I have personally investigated the military status of Defendant Devin Johnson using the Servicemembers Civil Relief Act centralized verification service, available at www.ServiceMembersCivilReliefAct.com. According to that service, there is no indication that Mr. Johnson is on active duty military status as of February 6, 2020. A notarized Affidavit of that investigation, signed by the director of that service, is attached hereto.

6. I have reviewed the FAC and the accompanying Declaration of Ion Soltan, which also accompanies the Motion for Default Judgment which my Declaration supports. The facts set forth in Mr. Soltan's Declaration support the amount of damages requested in the accompanying Motion for Entry of Default Judgment and do not exceed the amount demanded therein.

Executed on February 11, 2020, in Chicago, Illinois.

A handwritten signature in blue ink, appearing to read "Lowell D. Jacobson". It is written in a cursive style with a horizontal line underneath it.

Lowell D. Jacobson

EXHIBIT A



1120 20th Street NW Suite S-300*
Washington, DC 20036-3437
(202) 462-0600

www.ServicemembersCivilReliefAct.com
support@ServiceMembersCivilReliefAct.com

February 6, 2020

Lowell Jacobson
Benesch, Friedlander, Coplan & Aronoff LLP, 71 S. Wacker Dr. Ste. 1600
Chicago, IL 60606

Re: Tracking no. 202002062232; Name: JOHNSON, DEVIN L

Enclosed herewith please find the affidavit(s) you ordered in the above referenced matter(s). The original(s) are being sent to you, per instructions you sent with your order (or per your "Preferences" in "My Account").

Regular mail.

Federal Express.

Sincerely,

Servicemembers Civil Relief Act
Centralized Verification Service

Enc.

*The Verification Service is a division of SCRA, LLC, not a governmental agency



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AFFIDAVIT IN COMPLIANCE WITH THE SERVICEMEMBERS CIVIL RELIEF ACT

Tracking No. 202002062232
Active Duty Status Date: February 6, 2020

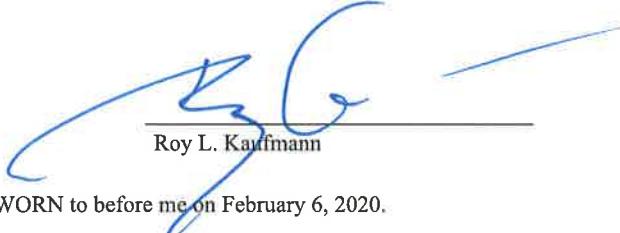
District of Columbia, ss:

My name is Roy L. Kaufmann and I am the Director of the Servicemembers Civil Relief Act Centralized Verification Service at www.ServicemembersCivilReliefAct.com. I am more than eighteen (18) years of age, of sound mind, suffer from no legal or mental disabilities, and I am fully competent to testify to the matters stated herein.

Pursuant to the Servicemembers Civil Relief Act [50 USC 3911 et seq.], I further state that I have caused a careful investigation to be made to ascertain whether or not

DEVIN L JOHNSON

is in Active Duty Status as to all Departments of the Department of Defense (Army, Navy, Marine Corps, and Air Force) as well as the National Oceanic and Atmospheric Agency, Public Health Service, and Coast Guard, including information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty, and that as a result of said inquiry, affiant does hereby state that, based upon the information you have furnished, as of the Active Duty Status Date (referenced above), there is no information in the Department of Defense Manpower Data center that indicates that the individual is in Active Duty Status. The Department of Defense reports that the information provided failed to match to a servicemember in its database.



Roy L. Kaufmann

This TWO-PAGE document SUBSCRIBED AND SWORN to before me on February 6, 2020.



Abraham Cain

NOTARY PUBLIC, D.C.

My Commission Expires: January 14, 2024



C1

This report is based upon information that you have provided. Providing an erroneous name, social security number, date of birth or other information may cause an erroneous report to be provided. If you obtain further information about the person you may resubmit your request and we will provide new status report for that query. This affidavit reflects status as of the Active Duty Status Date only. For historical information, please resubmit your inquiry with a different Active Duty Status Date or contact the individual Military Service SCRA points-of-contact: at <https://www.servicememberscivilreliefact.com/live/link/points-of-contact.php>. If you have evidence that the individual is/was on active duty as of the Active Duty Status Date and you fail to obtain this additional information, punitive provisions of the SCRA may be invoked against you. E.g. 50 USC Section 3951(c).

The Servicemembers Civil Relief Act Centralized Verification Service processes SCRA verifications through the Defense Manpower Data Center (DMDC) which is an organization of the United States Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military care and other eligibility systems, updated only once per month, incorporated herein by this reference. This report reflects the following information: (1) the individual's Active Duty status as of the Active Duty Status Date, (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date, and (3) Whether the individual or his/her unit received early notification to report for active duty as of the Active Duty Status Date. Records do not predate September 30, 1985.

The attached two-page Status Report(s) issued by the DMDC is/are incorporated herein by this reference and form(s) the factual basis for this affidavit. If there are multiple Status Reports attached, it is because we found several individuals with similar information (such as variations of name (maiden versus married), different social security numbers of 2-3 individuals with the same name, varying dates of birth, etc.) and all individuals were verified.

The information provided does not constitute a Consumer Report as defined by the Federal Fair Credit Reporting Act, 15 U.S.C. Section 1681 et seq., ("FCRA") and may not be used to determine eligibility for credit, insurance, employment or used for any other purpose governed by the FCRA.

Department of Defense Manpower Data Center

Results as of : Feb-06-2020 03:15:11 PM

SCRA 5.3



**Status Report
Pursuant to Servicemembers Civil Relief Act**

SSN: Redacted
 Birth Date: N/A
 Last Name: JOHNSON
 First Name: DEVIN
 Middle Name: L
 Status As Of: Feb-06-2020
 Certificate ID: RRPMKZMYHWH6167

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

A handwritten signature in black ink that reads "Michael V. Sorrento".

Michael V. Sorrento, Director
 Department of Defense - Manpower Data Center
 400 Gigling Rd.
 Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ? 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ? 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC ? 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC ? 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC ? 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.